

**BEFORE THE
UNITED STATES DEPARTMENT OF TRANSPORTATION
WASHINGTON, D.C.**

Comments of)	
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VANGUARD AIRLINES, INC.)	
)	DOCKET: FAA-2001-9852
Notice of Alternative Policy Options for Managing)	FAA-2001-9854
Capacity Airport and Proposed Extension of the)	
Lottery Allocation)	
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COMMENTS OF VANGUARD AIRLINES, INC.

Communications with respect to this document should be addressed to:

Robert M. Rowen
Vice President and General Counsel
Vanguard Airlines, Inc.
533 Mexico City Avenue
Kansas City, Missouri 64153

July 10, 2001

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By Notice published June 12, 2001 (the "Notice"), the Federal Aviation Administration ("FAA") sought comments on alternative policy options for managing capacity and mitigating congestion and delay at LaGuardia Airport (LGA) and the proposed extension of the lottery allocation. Vanguard Airlines, Inc. hereby comments on Phase One, the temporary extension of the lottery allocation and procedures for allocating further exemptions available under the Wendell H. Ford Aviation Investment and Reform Act of the 21st Century (AIR-21), as temporarily capped by the Federal Aviation Administration pursuant to Notice of Intent published in the Federal Register on November 15, 2000.

Vanguard fully supports the proposal of the FAA as published in the Notice, as being fair and in the public interest, for the reasons stated in the Notice. Vanguard further states its intention, if the proposal is adopted, to apply for two additional slot exemptions, outside the busiest peak periods identified in the Notice (the 5:00 p.m. and 6:00 p.m. hours). As a result of

actions taken by the FAA last year, Vanguard has been frozen at one roundtrip during the slot hours. It is difficult to compete with only one roundtrip during the preferred slot hours.

Vanguard requests that the Department reconsider its proposed October 29, 2001 deadline for an air carrier receiving slot exemptions to commence utilizing such exemptions. It is not clear in the Notice when the lottery allocation will occur. In order to effectively commence new operations, an airline must have adequate time to plan schedules to sell the new service, and to ensure that facilities controlled by other parties are available. This is particularly true for a smaller airline such as Vanguard that does not have the flexibility in its fleet of an airline operating 50, 100 or hundreds of jets and that has been unable to obtain a direct gate lease at LaGuardia.

Vanguard currently operates 12 aircraft and, accordingly, does not have the ability to begin new service to LaGuardia without either (i) acquiring and scheduling additional aircraft or (ii) revising its schedule of operations to other cities. Although Vanguard has commitments to obtain additional aircraft and has the ability to revise its flight schedule, the addition of new service requires greater system adjustments than would be the case at a large airline. Vanguard also must negotiate for additional gate space at LaGuardia, which negotiations may require the assistance of the Federal Aviation Administration ("FAA") under the FAA's mandate to assure nondiscriminatory access to airport facilities. Accordingly, Vanguard submits that the deadline for commencing service awarded under the new lottery should be 120 days after the date of the award. Vanguard would, of course, seek to commence the new service as soon as feasible and will comply with whatever deadlines are imposed.

Vanguard further comments that, contrary to the intent of AIR-21, operations at LGA by new entrant carriers are severely restricted due to the continued unavailability of airport gates

and facilities. Although AIR-21, the Airline Deregulation Act of 1978, airport contractual grant assurances, FAA orders and existing Department policies require airports to facilitate access by new entrant airlines to promote competition in the airline industry, in fact, Vanguard has been unable to obtain gate space reasonably adequate for its operations at LaGuardia. At LGA, Vanguard operates at a gate provided under a use agreement with Trans World Airlines ("TWA"). This gate has limited utility and is subject to the requirements of TWA and, presumably, American Airlines as successor to TWA.

Even during periods of normal operations, Vanguard does not have a permanent gate podium and has very restricted passenger holdroom space. This is the best case. During periods of irregular operations, Vanguard is dependent on TWA for access to (and operation of) adjacent gates and, on occasion, is left without gate access at all, and must search the airport for an operator willing to let Vanguard pull its aircraft to the gate to deplane passengers. In addition to the delays and inconvenience this causes Vanguard's passengers, Vanguard's costs of operation are significantly increased.

Although LaGuardia does manage certain common use gates, the gates are highly congested and unavailable at all times required by Vanguard.

With the acquisition of TWA by American, the gates currently used by TWA at LaGuardia should become available. Vanguard submits that, in furtherance of its mandate to promote competition and improve new entrant airline access to congested airports, the Department of Transportation should facilitate the freeing up of gates at LaGuardia as a result of the acquisition of TWA by American Airlines, and take other measures intended to promote new entrant airline access to gates at congested airports. Without reasonable gate access, the award

of slots under Air21 at congested airports will not have the desired result of promoting competition in the airline industry.

As noted in the FAA/OST Task Force Study “Airport Business Practices and Their Impact on Airline Competition” (October 1999) (“FAA/OST Study”), at page iv), the Department “must be vigilant in ensuring that all airports meet their legal obligations to accommodate all qualified airlines.” Accommodation includes not only gates but also parking positions, loading bridges, hold rooms, ticket counters and baggage make-up areas. (FAA/OST Study, page 16.) At LaGuardia, gates leased by TWA are underutilized by TWA and, with American’s acquisition of TWA, such operations can be accommodated on gates leased by American. The FAA has found that even long-term exclusive use agreements are subordinate to an airport’s obligation to assure that the airport is available for public access. (FAA/OST Study, page xvii.) Surely, LaGuardia has authority to require TWA (American) to relinquish its excess gates and other airport facilities so that such gates and facilities may be provided to Vanguard and other airlines currently without adequate access to LaGuardia.

Respectfully Submitted.

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ROBERT M. ROWEN
Robert M. Rowen
Vice President and General Counsel
Vanguard Airlines, Inc.
533 Mexico City Avenue
Kansas City, Missouri 64153
(816) 243 2995
Fax: (816) 243 2165